

EXHIBIT 1

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION**

HARRY WILEY, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

Case No: 2:25-cv-00227

ROBERT F. KENNEDY, JR., in his official
Capacity as Secretary of Health and Human
Services, and U.S. DEPARTMENT OF
HEALTH AND HUMAN SERVICES,

Defendants.

**DECLARATION OF JOHN J. HOWARD
U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
CENTERS FOR DISEASE CONTROL AND PREVENTION
NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY AND HEALTH**

I, John J. Howard, make the following declaration under 28 U.S.C. § 1746.

1) I am the Director of the National Institute for Occupational Safety and Health (NIOSH), which is an Institute in the Centers for Disease Control and Prevention (CDC). CDC is an agency within the U.S. Department of Health and Human Services (HHS). NIOSH is the federal agency responsible for conducting research, providing services, and making recommendations for the prevention of work-related injury and illness. As the Director of NIOSH, I oversee all of NIOSH's activities, including the Coal Workers' Health Surveillance Program (CWHSP). I make this declaration based on personal knowledge and information provided to me in the course of my official duties.

2) On April 1, 2025, HHS notified all non-bargaining unit employees and most bargaining unit employees based in the NIOSH-Morgantown, WV location that, pursuant to a planned

agency Reduction in Force (RIF), they would be separated from HHS at the close of business on June 2, 2025. Also on April 1, 2025, some other bargaining unit employees from NIOSH-Morgantown received an Intent to RIF notice. On May 2, 2025, HHS notified those bargaining unit employees that, pursuant to a planned agency RIF, they would be separated from HHS at the close of business on July 2, 2025. Fifty-one employees working in the Respiratory Health Division (RHD) received RIF notices. These 51 employees include all NIOSH RHD employees except for five Commissioned Corps Officers and three part-time employees.

3) After the RIF notices were provided, it is my understanding that HHS began a process to revoke RIF notices for some NIOSH employees. This revocation process began before this Court entered its Order dated May 13, 2025, requiring HHS to revoke the RIF notices affecting the NIOSH RHD employees.

4) HHS determined that the RIF notices for more than three hundred NIOSH employees, which included 50 RHD employees, should be revoked. HHS provided a RIF revocation notice to these employees via email on May 13, 2025, that they were no longer subject to the RIF.

5) One NIOSH RHD employee who carries out functions of the CWHSP did not have her RIF notice rescinded.¹ She returned from administrative leave to work at RHD following the May 13, 2025, Order, but to date has not been notified that her RIF notice is revoked.²

6) NIOSH RHD employees other than the one noted in item 5 received notices from HHS that their RIF notices have been revoked and most employees who were with RHD prior to April

¹ HHS implemented the revocation of RIF notices using the codes of the Enterprise Human Capital Management (EHCM) system rather than by the name of a NIOSH Division or its branches. Due to a clerical error, this employee was the sole employee assigned code "CCH" rather than code "CCH1" that covered the rest of RHD's Office of the Director employees.

² Pursuant to the preliminary injunction issued on May 22, 2025, by Judge Susan Illston of the U.S. District Court for the Northern District of California (Case No. 25-cv-03698-SI), the Department of Health and Human Services is staying further action on any existing RIF notices, including final separation of employees, at this time. Employees who have received a RIF notice will remain on administrative leave or in their current employment status with their respective organizations until further notice.

I, except those who have voluntarily separated from the agency, have returned to work in RHD at NIOSH.

7) After NIOSH RHD employees received notices that their RIF notices were revoked, NIOSH removed a banner from its website saying the CWHSP is paused, and the Program is again accepting submission of chest X-rays and spirometry tests and “other information” such as the most recent information Mr. Wiley provided to the program.

8) NIOSH is working through CDC and HHS chain of command to fully restore the RHD operations including:

- Restoring and establishing contracts needed to carry out RHD operations. Some examples include: (1) contracts with B Readers (i.e., physicians who classify chest x-rays for the CWHSP); (2) contracts to maintain x-ray image software needed to view and manage chest x-rays; and (3) contracts for x-ray technicians who participate in the CWHSP mobile unit and provide chest x-rays across multiple mining shifts during a mobile unit survey.
- Restoring external communications with partners and constituents needed to carry out RHD’s work under the Mine Act. For example, RHD must communicate with miners, mine operators, and media outlets to plan and promote CWHSP mobile unit surveys.
- Having the ability to efficiently expend funds to carry out RHD’s responsibilities under the Mine Act (e.g., RHD needs to have funding to commit to and plan its outreach activities at various locations).

In accordance with 28 U.S.C. § 1746, I declare, under penalty of perjury, that the above information is true and correct to the best of my knowledge and belief.

Signed this 2nd day of June 2025.

John J.
Howard -S

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John J. Howard -S
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John J. Howard, MD, MPH, JD, LLM, MBA
Director, National Institute for Occupational Safety
and Health
U.S. Department of Health and Human Services